

IN THE DISTRICT COURT IN AND FOR ADAIR COUNTY  
STATE OF OKLAHOMA

LINDA K. LANGLEY,

Plaintiff,

-vs-

BANK OF AMERICA, N.A, dba  
MERRILL LYNCH

Defendant.

Case No. CJ-2019-45

FILED  
ADAIR COUNTY DISTRICT COURT  
STILWELL, OK  
JUN 27 2019  
NICHOLE COOPER  
COURT CLERK

**PETITION**

COMES NOW the Plaintiff, LINDA K. LANGLEY, by and through her attorney of record, Wayne Bailey, and for causes of action against the Defendant, alleges and states:

1. On or about the 3rd day of April, 2018, Plaintiff directed a contribution to her SEP IRA plan administered and/or held by Defendant. A copy of the check is attached as Exhibit A.
2. Attached to that check was instruction to fund the SEP IRA accounts for Plaintiff and her husband, W.H. Langley, Jr.

**GROSS NEGLIGENCE**

3. Defendant, through its gross negligence, failed to fund Plaintiff's SEP IRA with those monies and rather directed the portion intended for her account to that of her son.
4. The actions of the Defendant were grossly negligent in that the funding instrument clearly provided the names of the account holders, the check stub provided direction for the funding, and the amounts of the funding are in excess of a person's maximum allowed contributions if the contributor is not over the age of 50.
5. The Defendant was grossly negligent in failing to fund her account at all and

to have funded an account that was not a SEP IRA and for a totally different name.

6. The gross negligence of the Defendant has caused actual damages for the lost investment potential of that contribution; the damages resulting from the lack of deductions on the Plaintiff's tax returns; and the loss of the mis-directed funds themselves.

7. The Defendant's gross negligence has caused additional incidental and consequential damages in an amount to be determined, but in all likelihood in excess of \$75,000.00.

8. The Defendant's gross negligence warrants punitive damages in an amount of \$250,000.00.

WHEREFORE, Plaintiff demands Judgment against Defendant for the sum of \$15,500.00 for the mis-directed funds as well as damages calculated from the loss of investment potential for a lifetime of return on monies not allowed to be funded into the account, and the unnecessary taxes, penalties and interest incurred due to the grossly negligent actions of the Defendant; for incidental and consequential damages resulting from the negligence in an amount to be determined; for punitive damages in an amount of \$250,000.00; for attorney's fees and costs; and such other relief determined to be just and equitable by this Court.

#### **BREACH OF FIDUCIARY DUTY**

9. Defendant owed Plaintiff a fiduciary duty to properly invest monies provided to it for the purposes intended and for her account.

10. Defendant breached that fiduciary duty by failing to fund Plaintiff's account with monies provided for that purpose.

11. The breaches of those duties resulted in actual damages, consequential and incidental damages, lost opportunity and other damages in all likelihood in excess of \$75,000.00.

12. The breaches of the duties owed in this matter justify the award of punitive damages in the amount of \$250,000.00.

WHEREFORE, Plaintiff demands Judgment against Defendant for the sum of \$75,000.00 for the breaches of fiduciary duties; for incidental and consequential damages resulting from the negligence in an amount to be determined; for punitive damages in an amount of \$250,000.00; for attorney's fees and costs; and such other relief determined to be just and equitable by this Court.

LINDA K. LANGLEY,

Plaintiff,

BY:

  
Wayne Bailey, OBA #19746  
BAILEY LAW, PLC  
Attorney for Plaintiff  
205 W. Shawnee St.  
Tahlequah, OK 74464  
(918) 456-6113  
wayne@oktaxlaw.com

**VERIFICATION**


STATE OF OKLAHOMA     )  
                                      ) SS.  
COUNTY OF ADAIR        )

LINDA K. LANGLEY, Plaintiff herein, being of lawful age and having been first duly sworn on oath, states that she has read and know the contents of the within and foregoing Petition and that the statements therein made are true to the best of her information, knowledge and belief.

  
LINDA K. LANGLEY

Subscribed and sworn to before me this 10<sup>th</sup> day of June, 2019.



  
Notary Public

